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XIV.—“TO BE STAIED”

Possibly no entry in the Stationers' Register has given rise to more discussion than the puzzling “to be staied” entered in the margin beside the titles of four plays on one of the fly-leaves of “Register C.” The item occurs on page 37 of volume iii of Arber's *Reprint*:

	My lord chamberlens menns plaies Entred	
27 May, 1600	A morall of ‘clothe breches and velvet hose’	
To Master Roberts		
27 May	Allarum to London	
To hym		
	4 Augusti	
	As you like yt / a booke	
	Henry the Ffift / a booke	to be staied
	Every man in his humour / a booke	
	The commedie of ‘much Adoo about nothing’ / a booke	

The entry has provoked curiosity chiefly because it has been assumed that here was a definite injunction against a threatened piracy, an assumption which fits into the generally accepted theory that playwrights were indifferent about the publication of their plays, if not really averse from it, and that the acting companies to whom they sold their plays were habitually opposed to the publishing of plays still in use, on the ground that it would lessen their profits; and therefore, when we find plays published that were still popular on the stage, we should immediately suspect them of being issued surreptitiously.

The theory in its simplest form is expressed by Sir Sidney Lee in his *Life of William Shakespeare*:¹ “This was one of the many efforts of the acting company to stop

¹ Macmillan, 1898, p. 207.

publication of plays in the belief that the practice was injurious to their rights. The effort was only partially successful." Practically the same view appears in the preface to the new Hudson *As You Like It* (p. xvii, 1906): "There is more probability that the 'staying' was the result of a direct attempt on the part of Shakespeare or someone acting for him, to prevent the publication of a popular new play, the circulation of which in book form would seriously interfere with its business success and the receipts at the theatre." Fleay² gives the theory a novel turn by his suggestion that *Every Man in his Humour* was published "without Jonson's supervision, no doubt by the company, as acted by them, after an ineffectual effort had been made to 'stay' it on August 4, by Jonson, I suppose."

Surprisingly ineffectual, this effort to "stay" the publication, whether it originated with acting company or author! It is true that, so far as we know, *As You Like It* was not published in quarto form. But ten days after the "staying" entry, *Henry V.* was entered to Thomas Pavier. It was printed in 1600 by Thomas Creede for Thomas Millington and John Busby, and in 1602 "by Thomas Creede for Thomas Pavier," and again "for T. P., 1608" (really for William Jaggard in 1619). The play had been acted at the Globe by the Chamberlain's men in 1599, and was later acted at Court, January 7, 1605.³ On the same date, August 14, 1600, Master Burby and Walter Burre "entred for their copie under the handes of Master Pasuill and the Wardens, a booke called Euery man in his humour."⁴ It was printed "as it hath been sundry times publicly acted by the right Honorable the

² *Biographical Chronicle of the Eng. Drama*, I, p. 358.

³ Murray, *History of the English Dramatic Companies*, I, p. 173.

⁴ Arber, III, p. 169.

Lord Chamberlen's servants, written by Ben. Johnson, for Walter Burre, 1601." The play had been acted in 1598, and was acted at court Feb. 2, 1605. Nine days after these entries (23 August), Andrew Wyse and William Aspley "entered for their copies under the hands of the wardens Two bookes, the one called Muche a Doo about nothinge. Thother the second parte of the history of kinge Henry iiiijth with the humours of sir John Ffallstaff: Wrytten by Master Shakespere." ⁵ *Much Ado* was published "as it hath been sundrie times publicly acted by the right honorable, the Lord Chamberlaine his seruants. Written by William Shakespeare. V. S. for Andrew Wise and William Aspley, 1600." Its earlier stage history is obscure. It was acted at Court 1612-1613 under the title of *Benedicite and Bettris*.

We may place beside these cases of ineffectual "staying" yet another from the same year—that of *Patient Grisell*. Henslowe records payment to Chettle, Dekker, and Haughton, in behalf of the Admiral's Company, of a total of £10 10 s. between Oct. 16, 1599 and 28 Dec., 1599; then, "to buy a grey gowne for gryssell £1" on 26 Jan., 1600,⁶ and finally ⁷

Lent unto (the c) Robarte Shawe the 18th of March 1599 (1600) to geue unto the printer to staye the printing of patient grisell the some of 40 s.

by me Rob. Shaa.

But, says Greg, "the play was entered S. R. 28 Mar., 1600 (i. e. ten days after it was stayed!) to C. Burby, and printed in 1603 for H. Rocket as acted by the Admiral's men." Mr. Pollard suggests ⁸ that this may have been a

⁵ This is the first entry of Shakespeare's name on the registers.

⁶ *Diary*, ed. Greg, II, p. 206.

⁷ *Ibid.*, I, F68, line 19.

⁸ *Shakespeare Folios and Quartos*, p. 12.

compromise payment to induce the printer to relinquish his printing right. Others seem to regard Burby as a brazen pirate entering (apparently with the approval of the Stationers) a copy to prohibit whose publication the owners had paid two pounds just ten days before. Belated justice then would seem to have overtaken the pirate; for the play was, after all, not printed till 1603, and then was printed for another man.

We have, then, in 1600 five plays clearly "to be staid"; and, after intervals of ten days in three cases and nineteen days in one, four of these five plays are entered for publication. Two are published within the year of the entry, one the following year, and one apparently not until three years later. Shall we suppose that the owners of the plays were at first eager to prohibit publication, and then suddenly "removed the bar"?

Various solutions have been proposed; but most of them are based upon the theory that the company objected to publication because the play was still new on the stage. It is beyond the purpose of this paper to discuss the general conditions of dramatic publication; but it may be permissible to suggest that this theory should be accepted with an interrogation point, in view of the Chamberlain's powerful patronage and his evident interest in protecting the players' rights, of the absence of any positive evidence that this particular company was at this time opposed to the publication of its plays save as such publication may have been unauthorized; in view of the many plays actually published while still good for stage use; and in view of the evident success with which Bieston's Boys protected their stage rights⁹ in plays which had been long in print,

* "Cockpitt playes appropriated." MS. in L. Chamberlain's Office. Murray, *Hist. of the Eng. Dramatic Companies*, I, p. 368.

and of the fact that they thought it worth while to protect old printed plays.

But, whether or not the theory is well founded, it fails to account in a satisfactory way for any play but *As You Like It*. If we regard the actors as still opposed to the publication when the other plays come to be entered after the “ staying,” we must suppose the Stationers to be either deliberately and openly promoting piracy or utterly helpless to enforce a prohibition which they still, however, record to their own shame. But the promptness and efficiency of the Stationers in cancelling false entries (as in the case of Bacon’s *Essays*, 1597), in taking up pirated editions, as Newman’s edition of Sidney’s *Astrophel & Stella*, 1591, in regulating the behavior of the pirates, as in the Jeffes-White quarrel over the *Spanish Tragedy*, 1592, make it impossible to suppose the Stationers helpless, especially in a case like this, where the Chamberlain, as well as the Court of Star Chamber, would back them up. And it is to be hoped that we shall not be driven to assume that the Company of Stationers deliberately put itself in league with pirates.

In order to evade this conclusion, it has been suggested that the acting company first put up a bar to publication and then, for reasons of its own, removed the bar. Clearly not in the interest of stage receipts, if the regular entry is supposed to carry with it the right to print at the printer’s convenience; for the interval between the “ stay ” and the regular entry is too brief to conserve the players’ interests for more than a single run. And unless this were expected to be the last or only run, it is hard to see why a company originally opposed to publication of these plays should so quickly change their minds. The plays were all successful, and were all used at Court after publication. And anyone who has looked through Henslowe’s

Diary or has studied successive editions of plays will understand that the custom of revising and rewriting plays, cutting here, expanding there, or even reviving them with only verbal alterations, was so nearly universal that it would be absurd to suppose that a good play by Shakespeare or Jonson could possibly have appeared to the company to have outlived its usefulness to the stage when it had finished its first few runs. If seriously opposed to publication on 4th of August, 1600, because of expected lessening of theatre receipts, doubtless the company remained opposed to publication throughout the month of August.

Of the three or four theories offered by Fleay,¹⁰ the first, that the plays "were ordered to be stayed; they were probably suspected of being libellous and reserved for further examination," seems peculiarly unfit. It cannot be made to account for the seemingly permanent "staying" of *As You Like It*; nor does it fit the character of the other plays, in which there is nothing to suggest a reason for a special challenge.

More reasonable are the theories based on the idea that the acting company was opposed not to the publication of plays in general or these plays in particular, but to the entry of these plays to others than the publishers authorized by the company. Aside from a possible preference for good printers rather than bad ones, the company may reasonably be assumed to prefer that the plays should be entered to printers who bought their copies from the company instead of securing them through circuitous means, whether by purchase from individual actors, by snatching up strayed or stolen manuscripts, or by patching up the texts from short-hand notes taken at the theatre.

¹⁰ *Life and Works of Shakespeare*, 1886, pp. 40, 140.

Collier was one of the first to suggest that the staying was for the sake of favoring a particular printer as against some others. In his introduction to *Much Ado*, he says that the object of the stay was probably to prevent the publication of *Henry V.*, *Every Man in His Humour*, and *Much Ado* by any other stationers than Wise and Aspley. But he offers no reasons for this preference.

Fleay's most recent conjecture¹¹ is a variation of Collier's: "It seems clear that the delay, of which so many hypothetical interpretations have been offered, was simply to enable Millington and Busby, who probably had the copyrights of all four plays, to complete the sales thereof to the other publishers." This, like Collier's theory, is founded on air; but here the air is considerably thinner. For Wise and Aspley did properly enter one of the plays, produced a text good enough to form the substantial basis of the Folio version, and transferred their property by regular entry so that we can trace it to the Folio owners. All this favors the assumption of legitimacy. But Millington and Busby do not appear at all on the registers in connection with any of these plays (unless, indeed, they are mentioned in the part of the registers which Mr. Arber was not permitted to publish, folios 427-486). They merely printed without entry a very short and garbled *Henry V.*, bearing on its face the evidences of its illegitimacy; slipped it on, by some obscure means, to a new stationer, Pavier, who retained the original printer for his work, but apparently waited two years to issue an edition. The text was secured by Jaggard in 1619 and printed "for Pavier," dated "1608," remaining to the end a version decidedly inferior to the widely differing Folio text. To suppose the delay to have been arranged to shield Milling-

¹¹ *Chronicle History of the English Drama*, 1891, II, p. 184.

ton and Busby is to accuse the Stationers' Company of the grossest and most obvious misuse of power in checking publication merely to permit a team of pirates to sell out a property that they had never owned.

The most ingenious and elaborate explanation is that set forth by Mr. Furness in the prefaces to the Variorum editions of *As You Like It*, 1890, and *Much Ado*, 1899. In the former volume, he declares (p. 294):

At the bottom of all this entanglement over the printing of *As You Like It*, was James Roberts. If we look back at the entries in the Stationers' Registers, we shall see that his is the last name before the *As You Like It* item set down as an applicant for an entry; and the same needlessness which deterred the clerk from repeating on this informal sheet the date of the year, deterred him from repeating in the margin opposite the titles of these new "bookes" the name of the applicant; who was (is it not probable?) this very same James Roberts. Now this same James Roberts was far from being one of the best of the Stationers, at least if we can judge from the fact that he came more than once under the ban of the wardens and was fined by them. . . . He once made an attempt on the Queen's Printer's realm of Catechisms, and was promptly repressed by the Master Wardens of the Stationers' Company. Next he seems to have turned his attention to the stage, and clasped itching palms with some of my Lord Chamberlain's men. In a mysterious way he gained possession of a copy of the *Merchant of Venice* and would have incontinently printed it, had not the Wardens "staied" it, and staied it for two years, too, at the end of which time James sold his copy to young "Thomas haies" and at once proceeded to print a second and better copy for himself. Clearly, James Roberts was what the Yankees would call "smart" . . . I believe he made some friends with the mammon of unrighteousness among my Lord Chamberlain's men, and by underhand dealings obtained possession of stage copies of sundry plays of Shakespeare's which happened to be unusually popular. His name does not appear often in the Registers in these years. After he was foiled in his attempt to print the *Merchant of Venice* in 1598, he made one other entry toward the close of that year, and succeeded in getting permission to print Marston's *Satires*. Then in March of the next year he tried to enter a translation of Stephan's *Herodotus*, but was "staied." Again, in the following October he was permitted to print a *History of Don Frederigo*, but

with the permission was coupled the very unusual condition that he should print "only one impression and pay sixpence in the pound to the use of the poore"; manifestly, James Roberts was in ill repute. His next venture was in May, when he tried to enter "A morall of Clothe breches and velvet hose, As yt is Acted by my lord Chamberlens servantes," but there follows the proviso "that he is not to putt it in prynte without further and better aucthority." Two days later, on the 29th of May, he again tried to enter a book: "the Allarum to London," and again there follows the inevitable caveat "that yt be not printed without further Aucthoritie." These two items, which appear in their proper order in the main body of the Registers, the clerk, as I suppose, briefly jotted down on the blank page at the beginning of the book, as a reminder to keep his eye on James Roberts. When, therefore, on the 4th of August, James Roberts brought forward four more plays that were performed by "my lord chamberlen's men," the clerk noted them down on his fly-leaf under the others, and did not take the trouble to repeat James Roberts's name, which was already there in the margin opposite the "clothe breches and velvet hose," but added (what was almost the synonym of James Roberts) "to be staied."

This it was, the bad reputation of James Roberts, which caused the printing of these plays when first offered to be forbidden. . . . Where the line was among printers, blessing some and banning others, we cannot know, only that it looks as though where all were bad James Roberts was somehow among the worst, and that to his unsavory reputation is due the fact that we have no quarto edition of *As You Like It*.

In the preface to *Much Ado*, Mr. Furness presents practically the same line of argument. He calls attention again (p. xi) to the fact that all editors have assumed the date 1600 for the entry of August 4 because it immediately follows the dated Roberts entry of two plays. "Now if the clerk thought it needless to repeat the 1600, why is it not equally likely that he thought it needless to repeat the name, James Roberts, if to him both entries belonged? What may be assumed of a date may surely be assumed of a name, especially since all six plays belonged to the Chamberlain's Company. . . . Is it straining the plain facts before us too far to assume that all these plays were

entered by James Roberts, and that the caveat was due to his shifty character?"

Decidedly, it is, as we shall see if we look more closely into the record of James Roberts. We should remember, the entries to Roberts are in ink of a different color from the staying entries, and a separate dating (4 Augusti) serves also to mark off the staying entry as distinct. Only the location on the page, the absence of printer's name for the staying entry, and the lack of the year 1600 in its date favor Mr. Furness's assumption. The location on the page may mean nothing more than that this was the next of the Chamberlain's plays to be entered after Roberts's entry, and that all plays of this company were being watched for some special reason that had nothing to do with Roberts's character. In answer to Mr. Furness's query why it is not equally likely that a clerk would omit the name of a claimant, in an informal note, if he omitted the year, it may be said that the omission of the name of the owner would certainly be a more serious drawback in conserving copyright than the omission of the year, when the month and day of the month were given, and there were often auxiliary means of determining the year if a dispute as to priority of entry should by chance occur. At any rate, it is rather idle to speculate as to which is more likely to be omitted; for it is only necessary to look through the registers to discover that not only here in these informal notes (some of which, in spite of their informal character, did service as real entries), but also in the body of the Register, the clerk does often omit the year when it is the same as that of the entry above, noting merely the month and day; but he is very careful, even in successive entries to one man, to repeat that man's name. The "to hym" of the second Roberts entry is in effect a repetition of the name of Roberts just above. Why not again "to

hym ” or some other indication of a connection with James Roberts? The very next entry to that of the staying is an example of careful repetition of the owner’s names, Thorpe and Aspley, where two books in succession are entered on the same day to the same men. Two pages back in these fly-leaves Millington’s name appears twice in succession in provisional entries belonging to the year 1603, but simply dated 25 April and 28 April. There are more probabilities against than for the accidental omission of Roberts’s name in connection with the staying entry.

Mr. Furness has pounced upon the reputation of James Roberts with considerable enthusiasm ; but he has not quite demolished it. The researches of Pollard and Greg in Shakespeare texts, strengthened by the disclosure by Mr. Neidig of the real facts as to the “ Roberts 1600 ” quarto of the *Merchant of Venice*, have tended to put Roberts back within the bounds of respectability. A comparative study of his record with that of other printers of his day will show that he was very far from being one of the worst, and that there is no evidence that he remained under any sort of ban among the stationers. His business in general, players’ bills included, was acquired in a normal way. The entry of the *Merchant of Venice* is unique only in its explicit mention of the Lord Chamberlain as the one who must furnish the authority to print, and not at all extraordinary because of its being provisional. The entries of *Clothe Breches* and the *Allarum to London* are unusual in that they are repeated in the memorandum on the fly-leaf, not in that they are provisional. The permission to print only one impression of the *History of Don Frederigo* and pay sixpence in the pound to the use of the poor was not “ a very unusual condition.” A cursory examination of the registers will show that it was a common practice

to allow printers in need of work to reprint old copies (some belonging to the whole Company and some simply derelicts through age and lack of claimants), with the condition that a percentage of the profits go to the Company's poor whom they were obligated to look out for. The worst that this arrangement could be supposed to imply is, that at this time James Roberts was out of work. Mr. Furness's statement that the publication of Herodotus is to be "stayed" is altogether misleading, when taken in connection with his theory. For this is only one of many entries of books to be translated, with the proviso that after translation the book is to be submitted to authorities for licensing publication. In other words, it is a mere advance claim to copyright in a work not yet produced. The most reputable of publishers did exactly the same thing.

The most extraordinary suggestions are those which Mr. Furness makes with reference to the entry of the *Merchant of Venice*. The wardens, not being so 'smart' as James Roberts, after being cautious enough to grant only a provisional entry in the first place and staying the publication for two years because the condition was not removed, still allowed him to retain and sell a copy he never owned, and meekly recorded his sale in their registers. And the buyer must stand back and see this smart stationer reprint a second and better edition for himself!

Much of this theorizing vanishes with the emergence of the facts about the 1619 quartos. We know now that William Jaggard, who succeeded Roberts in business, printed the "Roberts, 1600" quarto. And, as Roberts, though consenting to Hayes's entry of the copyright, reserved the printing to himself, it is safe to assume that it was by succeeding to Roberts's business that Jaggard acquired his text of the play. He no doubt knew that Roberts had once claimed, if not actually owned, the copy-

right; and, having no permission from the descendants of Thomas Hayes to reprint the play, hit upon the "Roberts, 1600" imprint as likely to give his issue a show of right. That it did not pass unchallenged may be guessed from the fact that Laurence, son of Thomas Hayes, re-entered the *Merchant of Venice* in his own name 8 July, 1619 "by consent of a full court" as one of two copies of Thomas Hayes his father. He held the copyright till 1637, when an edition was printed for him. So that it was Jaggard in 1619, not Roberts in 1600, that invaded the rights of the Hayes family.

The question now arises, did Roberts ever really own the copy of the *Merchant of Venice*? If the acting company refused permission to Roberts and granted it to Hayes, it is hard to see why the consent of Roberts should be recorded, as the entry on the registers was conditional on the company's approval. Miss Porter, in the Folio edition of the play, supposes the Roberts entry to indicate a stolen copy, and the appearance of the play two years later to be "subject to some sort of compromise between the rival publishers." But what is there to indicate rivalry, rather than ordinary business relations, between Roberts and Hayes?

Mr. Pollard's suggestion is more interesting:¹² "It is obvious that, if an applicant could obtain provisional protection merely by mentioning the name of a play and promising that he would produce subsequently sufficient authority for printing it, then here was a way in which an obstacle could be raised against piracy without any need for going to press inconveniently early." He discusses in this connection several provisional entries of Roberts as possible attempts of this sort: *Merchant of Venice*, *Ham-*

¹² *Shakespeare Folios and Quartos*, pp. 66 ff.

let, *Troilus*, and the two plays entered in May, 1600 and noted just above the staying entry. The theory would seem to be rather more applicable to the *Merchant of Venice* entry than to any other, in view of its wording and the subsequent history of the copyright and text. But in his next discussion of the topic (p. 71), Mr. Pollard seems to have abandoned the idea, at least so far as it concerns this play. "This book was re-entered by Thomas Haies by consent of Master Roberts, this course being taken in preference to an ordinary transfer most probably because the terms of the previous entry had never been complied with. If Roberts had produced a written authority from the Lord Chamberlain, the fact would almost certainly have been mentioned. It was simpler, now that a bogie was no longer needed, to enter the book afresh, the mention of Roberts in the new entry being a sufficient compliment to the old, while it helped to secure for him the printing of the book." But it is not easy to see why the Stationers should "compliment" the old entry if it turned out to be unauthorized. Their behavior on similar occasions was not complimentary. And why should they record consent of a man who had never really owned the copy? The phrasing "by consent of" is not so unusual a formula for an ordinary transfer of property as to call for so ingenious an explanation as this of Mr. Pollard's. We meet it on 6 Sept., 1602, for example, where *The Ethiopian History of Heliodorus* is transferred to Hayes "by consent of Master Coldocke," the rightful owner. If anything special is indicated by it, it seems to be, that a signed note of transfer is in the hands of the applicant for re-entry or that the original owner retains a part interest.

That the authorizing of Roberts by the Chamberlain would certainly have been mentioned does seem a reasonable statement, and it receives support from similar cases

where such notes are found appended. For example, a comedy, “ the fleare,” entered to John Trundell and John Busby 13 May, 1606 “ provided that they are not to printe yt tell they bringe good Aucthoritie & license for the Doinge thereof (6d.),” is transferred by regular assignment to Busby and Johnson 21 Nov., 1606 with this note appended: “ This booke is aucthorised by Sir George Bucke, Master Hartwell, and the Wardens.” And the provisional entry of Marston’s *The Dutche Curtizan*, 26 June, 1605, to John Hodgets is followed by a similar note: “ This is alowed to be printed by Aucthoritie from Master Hartwell.” But, on the other hand, there are cases where such notes were not entered, whether or not they should have been. Another of Marston’s plays, *The Faun*, was entered 12 Mar., 1606, to William Cotton, “ provided that he is not to put the same at prynte before he gett alowed lawfull aucthoritie.” It was printed by Cotton in 1606 with a preface by the author which shows clearly that he saw it through the press.¹³ In two other instances near the time we are considering we can see clearly from subsequent history that the provisional entry became a real entry, though there was no special noting of the fact that permission to print had been granted. On the 25th of April (1603) *England’s Mourning Garment* was entered to Millington as not to be granted to anyone else “ nor to hym neither unles he bring my Lord Graces hand or my Lord of Londons hand for aucthoritie.” Here the only clue to authorization is a W (probably the initial of Water-son, a warden) placed after the 6d. fee. On 7 June of this year Matthew Lawe was fined 20s. for printing “ Eng-

¹³ Marston, by the way, is the unhappily chosen example in Mr. Walder’s discussion of the playwright’s unwillingness to see his plays in print (*Cambridge History of English Literature*, v, ch. xi, p. 289).

lands Mourning Garment beinge Thomas Millingtons copie." There is nothing whatever to indicate removal of condition in the entry of Lyly's *Sappho* to Thomas Cadman, April 6, 1584 ("if he get it lawfully allowed unto him"); but Cadman published the play twice in that year, and, in spite of an issue "by Thomas Orwin for William Broome, 1591," the copy seems to have remained Cadman's, as it was entered "in full court" to Joan Brome, widow of William Brome, 12 April, 1597 with two others, "the whiche copies were Thomas Cadman's."¹⁴

A possible reason for carelessness of clerks in checking up conditional entries that were authorized may have been the fact that they had a habit of checking up in several ways the ones that were definitely forbidden. Sometimes the whole entry is struck through; sometimes the note *vacat*, or *this is no entry*, with the reason for the statement, will appear in the margin, or "struck out by order of" some authority, often "cancelled by a court." *Westward Ho*, provisionally entered to Henry Rockett 2 Mar., 1605, is so struck out, and below Rockett's name is written *vacat*. Similarly *The Returne of ye Knighte of the poste from Hell, with the Devilles Answere to Pierce Pennylesse Supplicacon*, provisionally entered to Nathanael Butter, 15 Jan., 1606, is cancelled by a court, 7 Feb., 1606, and so crossed out. Lack of cancellation cannot at all be insisted on as showing that a provisional entry held good; but it is well to note that this method was used when the Sta-

¹⁴ Bond, in editing Lyly's works, seems to assume that the copy passed out of Cadman's hands into William Brome's because of the 1591 edition. William Brome was dead before 4 October, 1591 (Arber, II, p. 596), and in 1591 Orwin had his presses seized for dishonest printing (Arber, v, p. li); so that the 1591 edition will bear investigation as to its legitimacy. However, the transfer to Joan Brome clearly recognizes Cadman as owner and makes no mention of a right on the part of Joan's former husband.

tioners knew an issue to be definitely forbidden, whether by the author, as in the case of Bacon's *Essays*, 1597, or by authorities, as in the cases noted above. Simple failure on a printer's part to get permission probably often went unrecorded, if the matter was amicably settled and the printer gave up his claims. Whether or not a fee was taken for the entry is not a guide as to its authoritative character; for the fee was often received in advance of complete authorization to print a work.

As there are some entries which turn out to be unconditional, though no note of removal of condition is appended, and as there is a recognition of Roberts's rights in the entry to Hayes, it seems simpler to suppose that Roberts got his permission and then sold out the copyright, retaining the printing for himself. Plenty of similar arrangements can be found. The entry to Roberts, then, would be regarded merely as an advance entry, to secure the copyright, either chiefly in his own interests or in the interests of the company.

In spite of the trouble over the invasion of a great patent in the printing of catechisms, when Roberts was obliged to submit to the order of a court,¹⁵ his record as a whole compares pretty favorably with those of contemporary printers of good repute. From 1593 to 1605 Roberts printed works of Harvey, Marston, Nash, Breton, Daniel, Drayton, Lyly, Spenser, and Shakespeare; he seems, indeed, to have been a rather important figure in the printing world. Comparing him with men like Jeffes, the warden Edward White, Sims, Danter, Pavier, and Waldegrave, one finds it easy to listen to Mr. Pollard's suggestion that Roberts was a trusted printer of the Chamberlain's company, who was used to enter and protect their copyrights,

¹⁵ Arber, II, p. 824.

with the understanding that the publishing was to be done at the company's convenience. But there is in the case of the staying entry no sufficient evidence to connect Roberts with the matter, and, as his name does not occur in any of the subsequent mentions of these copies, it is hardly safe to assume connection.

It may possibly occur to someone that the company may have entered these plays themselves, to secure the copyright, in this informal way, before they had decided upon the printers. The title of the group entry "My Lord Chamberlens menns plaies entred" might suggest this; but it precedes the note concerning the Roberts entries, and not the "to be staied" group. And besides, we have no evidence to show that an acting company could take out a copyright, formally or informally, except through the services of a stationer who should claim, hold, and protect that right.

In the case of *Patient Grissell*, at least, it seems likely that the Admiral's Company, in arranging, through Henslowe, to "stay" the printing, really meant to have a chosen printer, Burby, enter the play in his name, and reserve and defend the copyright, refraining from printing or selling out the right to print until the play should be released for publication by the company. It will be remembered that Burby entered the play ten days after the 40s. were lent by Henslowe to arrange the staying, but the play was not printed till 1603, and then "for Henry Rockett." Sir Sidney Lee interprets the situation in this way: ¹⁶ "Many copies of a popular play were made for the actors, and if one of these copies chanced to fall into a publisher's hands, it was habitually issued without any attempt to obtain either author's or manager's sanction. In March 1599

¹⁶ *A Life of William Shakespeare*, 1898, p. 48.

[it is really 1600] the theatrical manager, Philip Henslowe, endeavoured to induce a publisher who had secured a playhouse copy of the comedy of *Patient Grissell* by Dekker, Chettle, and Haughton, to abandon the publication of it by offering him a bribe of £2.”

That the theatrical manager had to buy off an intending pirate is an absurd notion. The whole history of piracy, as one may trace it through the registers, shows that it was the pirate that did the paying. In some cases an amicable settlement was made between printers, resulting in the authorized printer's buying up the printed sheets at cost or a low rate and using them for his own edition. Mr. Pollard seems to have something like this in mind, where he discusses the usual interpretation of the matter and offers a more reasonable solution: ¹⁷

Patient Grissell. . . was eventually published in 1603, but according to the usual interpretation of the entry the players thought it better in 1599 to buy off a piratical printer at the earlier date with a couple of pounds, than to allow it to be printed or to be at the trouble of getting the play stayed by authority. As it is certain that some plays were pirated, there is no impossibility in this, but the entry may equally well be explained as caused by the revocation of a permission to print previously given, the forty shillings being the compensation offered to the printer, either for pages he had set up, or for surrendering his bargain.

Possibly Mr. Pollard has in mind a hypothetical third printer, preceding Burby, who was bought off in this manner; but as no entry had been made in the registers before this date, clearly this printer must have been issuing his edition surreptitiously, if there was any of it in print at the time of this entry in the *Diary*; so that we should have, after all, the buying off of a pirate, at least in the sense of an unauthorized printer. If Mr. Pollard means

¹⁷ *Shakespeare Folios and Quartos*, p. 12, note C.

that Burby had permission to print and was then bought off, it is hard to see why he should have entered his copyright on the registers not before, but ten days after the arrangement to pay him two pounds to surrender his bargain. Without some theory to account for the entry to Burby ten days after the company determined to spend two pounds on staying the play, we can only echo Greg's (!). If Burby was paid to enter the play and refrain from publication until a time satisfactory to the company, the tangle begins to resolve itself.

But why was the play printed "for Rockett" if Burby was authorized by the company to enter and defend the copyright? Not, probably, because Rockett pirated it in spite of Burby's claim, nor because Burby was prohibited or bought off from publication, but most probably because he found it worth his while to sell the whole or a part interest to Rockett, or simply to use Rockett as book-seller, as no transfer is recorded. Rockett, as an apprentice, was turned over from Andrew Wise to C. Burby 25 December, 1594, and did not become free until 31 January, 1602, his first registered publication being 30 March, 1602. If anyone imagines that in March of 1600 the Admiral's Company preferred to grant the publication of one of their plays to Burby's apprentice rather than to Burby, he must still admit that the apprentice was not as yet entitled to enter copies in the registers or to print them for himself. So, if the work were to be saved for this particular stationer-to-be, Burby or some other freeman would have to do the entering. But with no reason for assuming such a preference on the part of the company, it is simpler to suppose that whatever transfer of rights occurred was by an amicable private business arrangement between a printer and his apprentice. Even if the property were wholly turned over to Rockett, the transfer would not

necessarily be recorded in the registers. Stansby held a note transferring to him copyrights in Jonson's plays from 10 June, 1621, until 4 July, 1635 before he thought it worth his while to have it recorded. Where stationers trusted each other and were not particularly afraid of invasion of their rights, there must have been numerous private transfers of this sort. In this case, Burby may even have retained a silent interest in the copy; for the assignments of part interests show clearly that they were often not recorded until occasion arose for a division of interests, as, for example, when a part owner died or went out of business.

We may get a little light on Burby's habits by comparing with his failure to print *Patient Grissel* his failure to print *Every Man in His Humour*, also to be stayed. Ten days after the staying note, just as in the case of *Patient Grissel*, *Every Man in His Humour* is entered unconditionally (14 August, 1600) to Burby and Burre. It was printed in 1601, not for Burby, the first partner, but “for Burre,” though there is no record of assignment of Burby's share to Burre. That in this case, at least, Burby retained his rights is clear from the fact that among the 38 copies assigned by Burby's widow to Welby 16 Oct., 1609, is “her parte with Master Burre in Every man in his humor.”

And there is another play printed “for Rockett,” though it was entered to another stationer, the circumstances of whose printing suggest an amicable private business arrangement. *Blurt, Master Constable*, is entered June 7, 1602 to Edward Aldee. With no recorded transfer, it was published in quarto in 1602 as “printed for Henry Rockytt, and are to be solde at the long shop under St. Mildreds Church in the Poultry.” Turning to the

history of shops,¹⁸ we find that in 1600 the widow Margaret Aldee, who succeeded her husband in business, kept the Long Shop with Rockett as her partner. The Edward Aldee who entered *Blurt, Master Constable* was her son. It is entirely possible that Aldee did the printing or had it done, and that Rockett only sold the book for him. Possibly some similar arrangement existed between Rockett the book-seller and his old master, Burby, in the case of *Patient Grissel*.

And now, lest some follower of Furness cast up Burby's record as unfitting him for the position of trusted printer authorized by the companies to defend copyright, let us hasten to admit that, although McKerrow sums up his record, in his dictionary of printers, with the statement that "nothing disreputable is known about him," he had his little sins. He was fined along with twenty-seven others for selling *Humors lettinge bloode*, 4 Mar., 1601, and again in the fall of 1602 for selling a book which Pavier had printed without entry; and again, in June of the same year, he was fined 20s. for printing, along with Dexter, *The Englische Scholemaster* without allowance. This had been entered to Jackson and Dexter 18 December, 1596, and was finally re-entered to Burby and Bishop 14 March, 1605. The history of this last case is too obscure for safe comment. It seems to be the only case of unlicensed printing on his own account that can be proved against him. The catalogue of his sins is comparatively brief. The Shakespeare quartos that he printed, the 1595 *Edward III.*, the 1598 *Love's Labor's Lost*, and the 1599 *Romeo and Juliet* are all, as Mr. Polard would say, "good"—i. e., they bear no *prima facie* evidences of being surreptitious. Burby handled general

¹⁸ Arber, v, p. 207.

literature of a fairly good class, and was also interested in publishing accounts of current events. Eight of his entries are provisional, and for this reason many will persist in regarding him as crooked; but perhaps we should regard this fact only as a testimony to his enterprising business habits; for in no case is there any sign of trouble with the authorities in connection with these conditional entries.

Burre, his partner in *Every Man in his Humor*, was also in the habit of entering in advance of complete authorization. But, in spite of the fact that we find *Catiline* recorded in the registers for the first time as transferred, the facts that he published besides this and *Every Man*, *Cynthia's Revels* in 1601, *The Alchemist*, 1612 (licensed by the Master of the Revels), and that he acquired by assignment from the rightful owners *Sejanus*, *Volpone*, and *Epicæne* and finally assigned all seven of these copies by due transfer to William Stansby, publisher of the 1616 Folio, put Burre before us as unquestionably an authorized printer of Jonson's plays.

But in the case of the Chamberlain's men's plays we have not, as in the case of *Patient Grissel* for the Admiral's, any positive evidence that the company is doing the staying, though the title under which the entries are grouped on the fly-leaf does suggest that the company was in some way specially interested. We have no evidence of any attempt on the part of the company to check a proposed piracy 4 August, 1600, though it is entirely possible that in the case of *Henry V.* a piracy may have been going on at just this time. Documents of later date, however, show that it was the custom of the Chamberlain to guard the players' printing rights. On June 10, 1637 the Chamberlain, Philip Earl of Montgomery, wrote to

the stationers¹⁹ concerning the efforts of his brother William Herbert, Earl of Pembroke, to "stay further impression" of some stolen plays; complaining that in spite of the caution (which should have sufficed) some plays had recently been stolen or gotten indirectly, and were about to be printed; requesting, in conclusion, that if any of the plays of the King's men were already entered or should be entered later, notice should be given to the company, and a certificate in writing from their representative be required before the play should be put in print. A similar warrant from Essex, August 7, 1641 is printed by E. K. Chambers in his article on *Plays of the King's men in 1641*,²⁰ mentioning the complaints of the players that certain printers intended "to Print and publish some of their Playes which hitherto they haue beene usually restrained from by the authority of the Lord Chamberlain." The reason given by the Lord Chamberlain for issuing the warrant is not that it is against the players' interests to have the plays published at all, but simply that copyright as well as stage right belongs to the players to dispose of: "Their request seemes both just and reasonable, as onely tending to preserue them Masters of their proper Goods, which in Justice ought not to be made comon for another mannes profit to their disadvantage. Upon this Ground therefore I am induced to require your care (as formerly my Predecessors haue done) that noe Playes belonging to them bee put in Print without their knowledge and consent." A list of unprinted plays belonging to the *répertoire* is enclosed for the convenience of the stationers. The closing request is, that when their plays appear for entry "they be made acquainted with it

¹⁹ *Prolegomena*, III, pp. 160-1.

²⁰ *Malone Society, Collections*, parts iv and v, p. 367.

before they bee recorded in the hall and soe haue Oportunity to shew their right unto them.”

It is open to question just how far back we may safely assume this “usual restraint” of the Lord Chamberlain to have occurred. Positive evidence stretches back only to 1616, the beginning of William Herbert’s term of office. Whether it is safe to extend “our predecessors” to include Carr, Earl of Somerset, Howard, Earl of Suffolk, and George Carey, Lord Hunsdon, the last of whom was Chamberlain in 1600, is a matter of speculation. It seems not unreasonable to expect that so powerful a patron would do his utmost to protect the interests of the players; but whether he did it in just this way is an open question. Perhaps it was only the unusually large number of plays belonging to this company that aroused the stationers’ suspicions; perhaps someone knew of trouble over *Henry V.*, or perhaps the Chamberlain himself issued warning. If the caution of the stationers were aroused, for one reason or another, shortly after Roberts entered his two plays conditionally, the memorandum would naturally begin with these. Then the next printers to appear with plays belonging to this company would meet a challenge and a refusal to enter the plays to them without complete authorization—perhaps a written permission from the company. The titles and the staying notice on the fly-leaf would, then, be no entry, but a memorandum not to enter these plays to anyone till the Chamberlain’s company had been heard from. The intervals of ten to nineteen days are reasonable ones for the transaction of such business, involving as it did in the case of plays, not only the company’s approval, but that of official censors, in addition to the wardens’. The entry, then, would mean not an injunction against any printer or printers intending to pirate all these plays, but a memorandum that the plays

had been brought for entry but held up for fuller authorization. The staying, in this case, would be as much to the advantage of the prospective printer as to that of the company; for it would be in effect, though not in form, a reservation of copyright to the applicant while his claim was being investigated.

This is not an attempt to argue that the term *to stay* never meant *to check*, *withhold*, or even, in some cases, *permanently to prohibit*. Real suppression seems to be meant in a letter from Fulke Greville to Sir Francis Walsingham (Nov., 1586) concerning an unauthorized reprint of Sidney's *Arcadia*: "I think fit there be made a stay of that mercenary book."²¹ And it is probable that permanent prohibition was intended when the Lord Chamberlain wrote to the stationers "to take orders for the stay of any further impression" of unauthorized publication of the Chamberlain's men's plays. Bacon uses the term quite frequently. In his letter to the Marquis of Buckingham, 18 Oct., 1621, he clearly implies only a temporary prohibition when he says: "My Lord Keeper hath stayed my pardon at the seal. But it is with good respect. For he saith it shall be private, and that he would forthwith write to your Lordship and would pass it if it received your pleasure." Lincoln's letter to Bacon, of the same date, confirms our judgment that here the "stay" is temporary: "May it therefore please your Lordship to suspend the passing of this pardon until the next assembly be over and dissolved, and I will be then as ready to seal it as your Lordship to accept of it, and in the mean time undertake that the King and my Lord Admiral shall interpret this short delay as a service and respect issuing wholly from your Lordship."²² The same idea, of tempo-

²¹ *Gentlemen's Magazine*, 1850, pt. i, pp. 370 ff.

²² *Life and Letters*, Spedding, VII, p. 308.

rary delay, attaches itself to Bacon's use of the term with reference to the holding back of his *History of Henry VII.* The manuscript had been approved by the King in the fall, had been printed and was ready for delivery, when the issue was stayed by Dr. George Mountain, Bishop of London, who was, of course, an official licenser. In a letter to Thomas Meautys (21 Mar., 1621), Bacon writes: "For my Lord of London's stay, there may be an error in my book; but I am sure there is none in me, since the King had it three months by him, and allowed it. If there be anything to be amended, it is better if it be spied now than hereafter."²³

Continued delay becoming in effect prohibition or suppression is illustrated also by Bacon's usage. He writes concerning a patent²⁴: "When it came to the great seal, I stayed it. I did not only stay it but brought it before the council-table, as not willing to pass it, except their Lordships allowed it." The lords heard the business for two days, disallowed it, and "ordered that it should continue stayed; and so it did all my time."

One cannot say quite so positively what the term means where it occurs in the *Prefatory Epistle* to Bacon's *Essays* (Jan. 30, 1597): "These fragments of my conceits were going to print: to labour the stay of them had been troublesome, and subject to interpretation: to let them pass had been to adventure the wrong they might receive by untrue copies, or by some garnishment it might please any that should set them forth to bestow upon them; therefore I held it best discretion to publish them myself, without any further disgrace than the weakness of the author." But probably what Bacon means here by "labour the stay" is only a considerable postponement of

²³ *Life and Letters*, VII, pp. 352-3.

²⁴ *Life and Letters*, VII, p. 514.

publication. His letters show clearly that it was never his intention to keep the essays permanently out of print. He was not at all averse from publication in general; and the essays in particular he wanted translated into Latin, that they might be a monument for posterity. But he did feel, apparently, that the essays were at this time unripe, and he would have preferred to keep them longer out of print, to revise and polish. But the entry to Serger might make it seem, if the essays were long withheld from publication, that they contained matter offensive to the authorities. At any rate, "labouring the stay" is here very certainly not merely the suppression of a piratical edition; for at the very time Bacon writes the preface he is succeeding in having that edition suppressed and the entry to Serger cancelled, and with very little delay. Serger entered the *Essays* Jan. 24, Hooper made his authorized entry February 5, and Serger's entry was cancelled by a court on February 7. The authorized edition was on sale already when the court cancelled the unauthorized entry, as is indicated by the date of a note on the title-page of a copy in the British Museum. Clearly it was in Bacon's power to choose, after getting a court to cancel Serger's entry, whether he would put his work in print or not. The Stationers' Court could not compel him to publish against his will; nor could a discovered pirate, except indirectly, as above suggested,—by making explanations for withholding publication needful.²⁵ It is just

²⁵ One good reason for not continuing to keep the essays out of print was, no doubt, that they were known from the manuscript version already, and subject to quotation without acknowledgment. The *Essay On Studies* was freely plagiarised by a member of the suite of the Earl of Lincoln on an embassy to the Landgrave of Hesse, in an account of that journey published within three months of Bacon's entry of the *Essays* (S. R., Oct. 26, 1596). Bacon may have thought it better to publish earlier than he had intended, to avoid having more of his thunder stolen.

possible that "labouring the stay" meant continuing to conserve copyright through his chosen printer for a considerable period without publishing.

This may be a forcing of the meaning of the phrase, as Bacon's use of the term *stay* throughout his letters seems most commonly to be in the sense of *postpone*. But there are some instances where it is quite clear that "to be staid" entered in connection with a printer's claim to a copy carries with it no suggestion whatever of an attempt, in the interest of the author or owner of the manuscript, at prohibiting that printer from intended piracy, but is rather a general prohibition of anyone from printing the work, and hence in effect a temporary and conditional reserve²⁶ of copyright to the claimant. Such protection would be particularly useful in dramatic publications, where consent must be had from several authorities.

These examples, however, taken from the fly-leaves to Register C that we are concerned with, have to do with non-dramatic works:

18 May, 1603. Henry Gosson. A booke called *a warninge peece to bribers* is to be staid and not entred to any but hym when he hathe aucthority for it.²⁷

31 March, 1603. William White. *The Erle of Essex going to Cales.* a ballad to be stayed for hym, begyns *gallantes &c.*^{27a}

²⁶ Outside the field of copyright a clear instance of the use of "stayed" in the sense of "preserved" in the interests of the owner occurs in *Remembrancia*, VII, p. 6 (1629):

"Anciently the custom was that if any man lost any pewter he should come to the Hall and give notice to the Company's officer, with the marks, whereupon the goods were stayed & restored to the owner, & the parties punished."

²⁷ The subsequent history of this piece I do not know.

^{27a} No fee is entered here. We find the real entry in the body of the registers (Arber, III, p. 238), just sixteen days after the note that the ballad is to be stayed for him. ("Gallantes all come mourne with me".)

A similar use of the term *stayed* is found in a provisional entry in the body of the registers (III, p. 302) where, on September 27, 1605, *The estate of Russia with the tragicall endes of the Late Emperour, Empresse & prynce* is "to be staid for John Trundel till he bringe further aucthority for yt." Here the fee is entered, and the provisional entry is made to serve as a real entry by appending a note, "he hathe Master Norton's hand for this entrance."

Clearly, then, two works to be stayed for the printers who first claimed them turned out to be authorized entries, and the other one is doubtful. The conclusion is inevitable that these printers were simply so eager to secure copyright that they entered the works in advance of complete authorization; that "staying" was a restraint which might prove to be temporary or permanent, according to the circumstances in any case; and that it was imposed by the stationers not to the disadvantage, but even, in a sense, to the advantage of the prospective printer, securing him in his claims while they were being investigated in accordance with some printing regulations.

An examination of the other entries on the fly-leaves of Register C shows that many of the eleven items preceding our staying entry are provisional, as the entry of *England's Mourning Garament* to Millington, for example: "This book is not to be entred to any but hym, nor to hym neether unles he bring my Lord graces or my Lord of Londons hand, for auctoritie." Four more provisional entries follow the staying note. The miscellaneous character of the notes may be illustrated by the last two entries, one of which (as late as 1615) concerns the indebtedness of one stationer to another, and the other, May 16, contains the caution that "if any of Master Deane of Windsor [Nicholas West's] copies come to be entred, Master Knight

is to haue notice thereof.” The fly-leaf entries were apparently not intended for real entries, in the first place, but for an informal memorandum; but four entries are made to do service as real entries by the addition of a fee and a warden’s initial, or “per token from Master Man” or some other sign of authorization.

The entry in advance of complete authorization was apparently a recognized business transaction. For many years it had been the practice, even among the best printers, to reserve printing rights for works to be translated, with the proviso that, when the work was completed, it should be submitted for examination and license. As competition grew keener and there came to be an increasing demand for works of current interest—fresh plays, ballads, satires, and news letters—other works came to be entered in advance, to secure the copyright. Gradually works of more permanent interest were added to the list.

The advance entry was made by many of the most important publishers, Ponsonby, Burby, Trundell, Ling, Aspley, for example; and it seems to be not a symptom of rascality or poverty of the stationers, but rather a testimony to the keen competition of the rival stationers, whose eagerness to protect their newly acquired copies outstripped the delays imposed by the elaborate system of censoring and licensing.

That a sort of partial authorization was occasionally granted by an official licenser, so that the stationer might get temporary protection of his copyright, may be inferred from the defence of a licenser of William Prynne’s *Histriomastix*, 1634:²⁸

Mr. Buckner in his defence saith, hee lycenced but 64 pages of it; that that was not lycenced to bee published, but onely att the request

²⁸ *Proceedings against William Prynne, Camden Society, 1877, p. 15.*

of Sparckes to bee entered into the Stationers' Hall, to entitle Sparckes to the sale of it; that hee advised the booke should not bee published, and said to Sparckes, hee would loose his eares yf hee published it; that when it was published, by his meanes warrant was obtayned from the late Lord Bpp. of Canterburye for calling in of the same.

The excuse was not held to be satisfactory, as Buckner was fined £50 because, as the King's Attorney puts it, "it doth appear hee eyther lycenced, or begann to lycence it." But still the defence of the licenser leaves no doubt that the stationers did enter books and secure copyright without expectation of immediate permission to publish and without complete authorization. A similar instance of partial licensing is that of *Nosce Teipsum*, entered to John Standish 14 April, 1599. "This is aucthorised under the hand of the L Bysshop of London. Provyded that yt must not be printed without his L hand to yt agayne."

We find, then, that *staying* as applied to publication at this time may indicate suppression or prohibition; but that it is more generally used in the sense of postpone-ment or delay; that there is no need of interpreting a staying order as a sort of injunction against a threatened piracy, inasmuch as the delay may arise in the ordinary course of business; and that in some instances the order for staying is given in the interests of the printer who brings the work to be entered, for whom it serves as a temporary protection against invasion of the rights he claims.

In the case of our entry, the evidence is insufficient to determine whether the order arose as a result of the ordinance of 1599 stimulating the stationers to greater diligence in the oversight of plays in general, whether it arose as a result of a special request for care in regard to the issuing of plays belonging to the Chamberlain's Com-

pany, or whether it arose in the ordinary course of business. The grouping and labelling of items, however, suggests some special watchfulness of the interests of the Chamberlain's men at this time. The circumstances surrounding the publication of *Patient Grissel* somewhat favor the theory that the Admiral's men were interested in reserving the copyright of this play through a chosen printer, Burby. A similar purpose on the part of the Chamberlain's men in the case of their four plays is not unplausible; but the evidence is insufficient to establish such a theory. In the absence of proof that the Chamberlain's Company was entering its plays, it is perhaps safer to assume that the plays were presented by individual printers; that they were delayed for fuller authorization; that two were found to be authorized, one (*As You Like It*) definitely unauthorized, and the fourth (*Henry V.*) also unauthorized, but perhaps even then in print or being printed.

If we regard staying as either an ordinary or extraordinary precaution on the Stationers' part, flexible in limits of duration, merely safeguarding property in the interest of the claimant until an investigation of his right is made, we may proceed to study the plays independently of one another. We are relieved of the necessity of choosing between the theory that the Chamberlain's men attempted to check a threatened piracy of four (possibly six?) plays at once and found the Stationers so incompetent as to fail in every case but one, though backed by Star Chamber, Privy Council, and Lord Chamberlain, and, on the other hand, the theory that the Stationers were competent but openly crooked in their business. We do not need to suppose that the acting company whimsically changed their minds. And in the case of *Patient Grissell* we have found a rational use for those forty shillings! Also, we are re-

lieved of the embarrassment of supposing that, because one of the plays was not published in quarto, all should not have been; and of placing on a par so good a text as the quarto of *Much Ado* with so wretched a text as that of the first or second quarto of *Henry V.* We may take each of these texts upon its individual merits.

In the case of *As You Like It* there is no positive evidence as to why it was stayed in 1600 and not published, apparently, until 1623. Current opinion is fairly represented by the attitude of the editors of the new Hudson *As You Like It*, Boston, 1906 (pp. xvii-xviii):

There is more probability that the 'staying' was the result of a direct attempt on the part of Shakespeare or someone acting for him to prevent the piratical publication of a popular new play, the circulation of which in book form would seriously interfere with its business success and the receipts at the theatre.

This will doubtless remain the accepted theory unless a more thorough study of the history of dramatic publication shall sometime unsettle the popular conviction that before the Restoration all dramatic companies feared the publication of plays still running would spoil their business and lessen their receipts.

It is more profitable to speculate concerning the plays that did appear in quarto. Mr. Pollard, who has made a careful study of the text of *Much Ado about Nothing*, says: That the manuscript was obtained from the Chamberlain's men and printed with their full authority "is as certain as anything can make it save the discovery of a statement to that effect in Shakespeare's autograph." His chief reasons are: that no pirate would dare appear so soon after the staying notice (no doubt the regularity of the entry as compared with that of *Henry V.* was in his mind in connection with this); and that the actors' names and stage-directions indicate a playhouse copy as a source.

Of course, the actors' names might be jotted down by a spectator who was familiar with the names of these famous actors, if he were taking short-hand notes of the performance. But the text does not furnish ground for suspicion of having been pirated by stenography. Its close resemblance to the Folio text, taken with the fact that one of its publishers, Aspley, helped finance the Folio, unites with the other evidence in favoring the assumption that this quarto was authorized.

The really problematic case is that of *Henry V.*—not as to whether the quarto text was authorized (for on that there can hardly be two opinions), but as to why it should have been tolerated, and how it came to be entered on the Registers. Rolfe, in his *A Life of William Shakespeare*, (1904, p. 255), says: "The prohibition was soon removed, at least with regard to *Henry V.* and *Much Ado*, the former being duly licensed for publication on the 14th and the latter on the 23d of August, and editions of both were issued before the end of the year." But this smoothes the matter over too easily. *Henry V.* was not "duly" licensed, if duly means regularly; and the edition which came out that year was apparently not for Pavier at all, unless he had a silent partnership; for the 1600 quarto is printed "by Creede for Millington and Busby," and is to be sold "at the house in Carter Lane next the Powle head," which is the Millington and Busby shop; and it is not till 1602, so far as we know, that an edition was printed by Creede for Pavier, to be sold at his shop.

It is just possible that the unprinted portions of the Registers, folios 427 to 486, may contain some item that will throw light upon the Pavier entry of 14 August, 1600, but unless something of that sort appears to explain the situation, we must regard the entry as unusual and obscure in meaning.

Entred for his Copyes by Direction of Master White warden under his handwrytinge. These Copyes followinge beinge things formerly printed and sett over to the sayd Thomas Pavyer.

Among the twelve copies listed is *The historye of Henry the Vth with the battell of Agencourt*.

Whether the Millington and Busby edition was printed before or after the staying notice is not known. Pavyer's "printed and sett over," if true of *Henry V.*, suggests that Millington and Busby's edition was published or at least in print before 14 August; but of course the phrase may be in this case nothing but a subterfuge.

The text of 1600 is notoriously bad; that of 1602 is practically a reprint, in spite of over a hundred minor variations in spelling and wording, some for the better, some for the worse. The 1602 quarto is in no sense a revised version, as there are no substantial changes in the sense. The first quarto version is less than half the length of the Folio text. It lacks the first scenes of Acts I and III, the second of Act IV, and the choruses; it interchanges scenes 4 and 5 of Act V, and condenses or omits many of the best speeches. The French of the English lesson and wooing scene is exceedingly corrupt. Prose is often set up as verse. One cannot say with confidence just what is the relation of the quarto versions to the folio; but apparently it is a very bad transmission of an unskilfully cut version of the text which underlies the Folio—marred not only by bad cutting but either by failure to read copy, or, what is more likely, by a clumsy attempt to patch out a text from short-hand notes. The badness of the text is not corrected; for even in 1619, when William Jaggard had printed the quarto "for T. P., 1608," he made only a few corrections here and there, evidently with no fresh sources.

Mr. Pollard suggests²⁹ a reason for the failure to

²⁹ *Shakespeare Folios and Quartos*, p. 68.

improve the text: that, as pirates had put *Henry V.* on the market in spite of the company's opposition, “ they could only revenge themselves by abstaining from setting right the text, a form of vengeance which seems to show that Shakespeare cared more for his business relations with the Chamberlain's men than for his literary reputation.” This does not fit in very well with his theory that the 1598 (first extant) edition of *Love's Labor's Lost*, printed without entry by Burby for W. W. as “ newly corrected and augmented,” is an authorized re-issue replacing a former piracy, and that the 1599 edition of *Romeo and Juliet*, by Creede for Burby, is an authorized edition to supplant that of Danter in 1597. It is hard to see why the company should adopt such a form of “ vengeance ” in the one case and not in the others.

Mr. Pollard's explanation of the irregular character of the entry on the registers is not entirely satisfactory, owing to an accidental slip resulting from the confusion of the first names of two printers. He remarks: ³⁰

This entry is thoroughly characteristic of the way things were done in the Stationers' Company. Master Warden White was the printer, William White, and Pavier was contracting with him for some of his ‘ copyes,’ e. g., the *Spanish Tragedy* and Peele's *Edward Longeshankes*, both of which are named in the list. White, being Warden, could make the entry in any form he chose, and so Pavier slipped into the list *the historye of Henry the Vth with the battell of Agencourt*, thus obviating the necessity for mentioning that he was obtaining it from persons who had omitted to apply for a license for it and who could probably show no shadow of a claim to its possession.

In correcting a slip in the date (in a list of *Errata* prefixed to the volume) Mr. Pollard holds to this theory: “ Thus it was ten days, not two years after the staying order, that Pavier, with the connivance of the Master of

³⁰ *S. F. & Q.*, p. 67.

the Stationers' Company, from whom he was buying copyrights, slipped in a false entry of this play under the guise of a transfer, and the discreditable transaction is thus made a good deal worse than I thought it."

The vagueness of reference in the "things formerly printed and set over" does seem to suggest great negligence if not crookedness on someone's part. But the motive for crookedness in this case disappears when we see that the warden of the company was not William but Edward White. It was William who, up to 1600, owned the copies of Peele's *Edward Longshanks* and Kyd's *Spanish Tragedy*. The former was printed by Abel Jeffes in 1592 and reprinted by William White in 1599. The *Spanish Tragedy* was presumably printed twice before 1594, once without date by Edward Aldee for Edward White (probably before the end of 1592), and probably once before this, by Jeffes, as Aldee's quarto is advertised on the title-page as being "corrected and amended of such grosse faults as passed in the first impression." A third edition was printed in 1594 "by Abell Jeffes. sold by Edward White"; a 1599 edition was printed by William White, and several later editions for Thomas Pavier after the "setting over" to him. But Jeffes assigned the copy not to Edward, but to William White, and it passed from William White to Pavier. The relations between the quartos of the *Spanish Tragedy* were for a long time obscure. Not the rightful owner Jeffes's first edition but Edward White's somehow survived. And White's early quarto printed by Aldee offers a text freer from error than the later one printed by Jeffes and sold by White. So that, up to 1901, when Schick's revised edition of the text appeared, it was commonly supposed that the "Alde for White" quarto was the authoritative one, and that the copyright somehow passed from Jeffes to Edward White. One argument of

Schick's is sufficient to prove beyond a doubt that the undated "Alde for White" quarto was used for setting up the "Jeffes, sold by Edward White" quarto of 1594. The compositor of the Jeffes quarto, in setting up fol K₂^a, fell short one line in his pagination, and retained (out of place) both a stage-direction and the former compositor's catch-word, She stabs

her helpe

Enter, an error unaccountable on any other supposition than that the second compositor had the first text before him. Mr. Schick has also shown that, in spite of White's having a text which lays claim to being better than its predecessor and actually is purer than its successor issued by the rightful owner, the better text is the piratical one. This is an unwelcome bit of news to such text critics as assume that a bad text is an inevitable indication of surreptitiousness; but in this case all we can do is to accept it, and acknowledge that it was simply a case of E. White's having a more careful printer get up his edition. For an entry on the Registers not reprinted by Arber but quoted by Herbert in his edition of *Typographical Antiquities*, (II, p. 1160), taken together with a note in Arber's reprint (II, p. 864), leaves no doubt as to the White piracy:

Whereas Edw W & Abell Jeffes haue each of them offended, viz. E W in having printed The Spanish Tragedie belonging to A J And A J in having printed The tragedie of Arden of Kent, belonging to E. W. Yt is agreed that all the books of each impression shalbe confiscated & forfayted, according to thordonances, to thuse of the poore of the company. Item, yt is agreed that either of them shall pay for a fine 10 s a peece, presently or betweene this & our Lady day next. And as touching their imprisonment for the said offence, yt is referred ouer to some other conuenient tyme, at the discrecion of the Wardens and Assistants. Item. Abell hath promised to pay the 6 d. in the li. to thuse of the poore which he oweth for Quintus Curtius.

In the margin is "solut. x s. per E. White, May 1593." And in May, 1593 in Arber (II, p. 864) occurs this receipt:

Edw White Receaued of him for a fine accordinge to the order sett downe betwene him and A Jeffes 18 Decembris ultimo [1592] x s.

Jeffes made submission before a full court 18 December, 1592, and promised to live honestly. As he was the first offender, as the pirate had bettered the text, and the Stationers had arbitrated the difficulties by punishing both, Jeffes and White seem to have come to an agreement permitting Jeffes to set up copy from White's better text, and White to have the selling.

There is no evidence that the warden, Edward White, retained an interest in the copy of the *Spanish Tragedy* after it passed by duly recorded transfer from Jeffes to William White; nor that E. White was ever interested in Peele's *Edward Longshanks*. Mr. Daniel,³¹ while keeping the Whites distinct, has supposed it necessary to assume a tie of relationship or business between them. But the name White is too common to justify such an assumption without evidence; and there appear in the registers no traces of relationship where we should expect them. The only entry that could be supposed to connect them significantly is that concerning fines ordered by Court June 25, 1600. Edward Aldee and William White are fined 5s. apiece for printing the "ballad of the wife of Bathe," and Edward White 10s. for selling it. But we know Aldee to have been Edward White's printer, and it is possible that the only business tie here is between Aldee and Edward White. Even should we suppose that in this case Edward White sold some books printed by William, the single instance would be insufficient to prove either family

³¹ *Academy*, 1891, II, p. 197.

ties or special business partnership. It certainly would furnish no reason for Edward White's interest in slipping in a false entry of *Henry V.* to Pavier; for the transfer of the *Spanish Tragedy* to Pavier was regular and needed no concealment, as William White really owned the copy and continued to print for Pavier after assigning the copy to him.

So, if Edward White deliberately misused his power as a warden, it must have been simply as an act of favoritism to one of the chief parties concerned: Millington and Busby, anxious to get the questionable property disposed of, or the new stationer, Pavier, eager to acquire copy even at a risk. Entries in 1602 and 1603 show that at this time Edward White had ordinary business relations with Pavier, but no direct connections appear in 1600.³² It is unlikely that Pavier had in August, 1600 any strong business ties with any of the stationers, as he was only two months old at the business. His first entry on the registers is that of two copies on the 4th of August (the date of the staying), only ten days before the entry we are considering.

It would be rather easier to find a reason for assuming favoritism toward Millington. The recently discovered 1594 quarto of *Titus Andronicus* was printed by John Danter and "to be sold by Edward White & Thomas Millington, at the little North doore of Paules at the signe of the Gunne." That there was a temporary partnership in a copy is perfectly clear. The shop named is E. White's, however, and there is no evidence that Millington sold there. During the whole time in question, 1594-1600, Millington had his own shop to the east of St. Paul's,

³² The E. White who assigned him twelve copies Dec. 13, 1620, is a younger man. The warden E. White died in 1612.

under St. Peter's Church, in Cornhill. So that the tie between E. White and Millington was not the equivalent of a real partnership in general book-selling.

The personal record of Edward White is such as to suggest that he would not scruple to misuse his powers as warden, given a sufficient motive for doing so and a fair chance of not being called to account by a Court of Assistants. During the general house-cleaning at Stationers' Hall which succeeded the printing ordinances of 1586, White was among those who entered the long lists of ballads, some of which were no doubt published earlier without entry, as they are entered on condition that the copies belong to no others. He was fined even when he was warden, 25 June, 1600, to the extent of 10s. for printing a "disorderly" ballad, and was fined again in 1603. The question is, though, why he should risk the unpleasantness of possibly being called to account so soon after the trouble in June, unless he were personally interested in the transfer. For the warden of the Company was certainly not immune to criticism and punishment for irregularities of behavior. Christopher Barker, elder warden, printer to the Queen, and much more prominent as a stationer than White, was fined 20s. in 1586 for holding an apprentice "a certen space" unrepresented. And on March 1, 1596, a court took away a copy from Master Dawson, Warden. That wardens now and then broke rules is evident; that they broke them oftener than they were caught and punished is very probable; but that the making of false entries to serve their own interests was "thoroughly characteristic of the way things were done in the Stationers' Company" is not, I believe, a conclusion that can be justified by the facts. The wardenship was a position of trust and responsibility; but if this was not sufficient to steady a stationer of shaky prin-

ciples, he might be inspired to caution by the fact that it was also a position of publicity. Stationers subject to fines and regulations were excellently qualified to keep an eye on the behavior of a warden who was also subject to fines and regulations.

It is quite true, as Mr. Pollard says, that a work once printed without entry was sometimes "made an honest woman" by late entry on the registers. The intention is clear in the following instances:

Veale on 2 Sept., 1578, has "lycenced unto him The Regiment of lyfe uppon condycon that if it heretofore be lycenced to any other that then this license graunted to him shalbe void.

he fined for printynge this before he had lycence (II, p. 336)

2 August, 1578. he is fined for printinge the regiment of lyfe without Lycence lo s. pd."

7 Feb., 1597. Thomas Myllington "is ordred that he shall pay 2s. 6d. for a fine for printing a ballad to the wrong of Thomas Creede, and shall also pay to the said Thomas Creede iiis. iiid. for amendes for ye sayd wrong. The fine is to be paid for that the ballad was not licenced, and Myllington performing this order is to enjoy the ballad."

But other entries already quoted show that a pirate could not always get his work recognized after it was printed, simply by paying a fee for entry. The fact appears clearly in a note after the entry of Beza's *Psalmorum Davidis et aliorum Prophetarum*, 26 October, 1579: "Master Vautrolier had printed this without Licence before this was entred to master bishop" (II, p. 361).

Where we have sufficient data for studying the settlements between rightful owners of copies and piratical stationers, we find that the rightful owner as a rule takes over the copyright; but sometimes, if amicable settlement is made, he buys up printed copies for his own use. In other cases the pirated editions are confiscated to the use of the Stationers' Hall, or destroyed. Newman's unauthorized edition of *Astrophel and Stella*, 1591, was taken

up, and the edition suppressed. Jeffes and White, as we have seen, had their piratical issues of plays confiscated in 1592. When complaint was made in time, false entries could be cancelled, as in the case of Bacon's *Essays*, 1597, and Sidney's *Apologie for Poetry*, wrongly entered to Olney, 12 April, 1595, and crossed out because it belonged to Ponsonby by an entry about five months earlier under a slightly different title.

Apparently, the degree of satisfaction to be obtained through the Stationers for invasion of the owner's rights depended, first of all, upon promptness of discovery of the invasion, and also, to some extent, upon the amount of pressure brought to bear upon the Stationers by the rightful owner. Obviously, the Stationers wished all copies printed to be duly recorded on the registers, and were more concerned with this than with the question as to how the stationer got hold of his copy. That there was inquiry on this point, however, is perfectly clear, in the case of transfers from one stationer to another, because there is often recorded the fact that a note of hand from the original owner gave the second stationer the copyright. What inquiries were made when the stationer first brought his copy to be entered is not so clear. I think it likely that the official censors and licensers handled the matter in many cases. Surely the Master of the Revels, as licenser of plays, was best fitted to inquire into sources of copy. The Stationers' chief interest was, to keep straight their records of ownership; they were most anxious to have all works entered on the registers; and it is only natural that, after a piracy had been aired, it would seem wise to them to make the best of a bad situation by starting a record which would at least do away with the possibility of future entanglements about the printing rights. In the eyes of the lover of literature, such a practice can never, in any

sense, make “right” a bad text; but to a business man it might have something to commend it. Where the bad text continued to be printed, there were doubtless reasons for this—indifference on the part of the owners, or disinclination to put themselves to the necessary trouble to prove their claims.

So far as the accessible records from Stationers’ Hall can testify, the trouble over *Henry V.* was not aired in the Stationers’ Court. The quietness of the entry to Pavier, too, seems to suggest that the entry was slipped in. In the “setting over” of *Henry V.*, 14 August, 1600, there are several possibilities. Millington and Busby may have tried to enter the work, met with a delay Aug. 4, and, failing to get authority for publishing their poor, ill-gotten text, decided to get rid of it as quickly as possible, in spite of the fact that they had already printed some copies in the hope of getting their entry allowed. That Millington did assign one copy before he had it properly allowed to him is clear from the entries concerning *Jack of Newbery*:

7 Mar. 1597 Millington entered “Jack of Newbery so that he haue it lauffully authorised. 6d.” (III, p. 81)

25 May, 1597 Humfrey Lownes had “assigned ouer to hym for his copie from Thomas Myllington A booke called Jacke of Newbery: with this condicon that yt be Lauffully authorized whiche booke was entred for the said Thomas Myllington 7 Marcii 1596(7) upon the same condicon. 6d.

This is entred by Direction from Master Warden Dawson.”

The same sort of setting over of a work entered provisionally (but in this case “stayed” and not entered to him by name), may have occurred in the case of *Henry V.*

Another possibility is, that some private agreement may have been reached by which Pavier should make the effort to do what Millington had failed in—get the copy recognized by the Stationers and recorded—and Millington and Busby should retain an interest and be responsible for the

sale of the work. As Pavier had been transferred from the Company of Drapers to the Stationers as recently as June 3, 1600, he must have been eager for copy; his later history shows that he was not very particular as to the way the copy was acquired. As yet, he could have little or no business reputation, and even stationers of questionable repute, such as Millington, might be better able to sell the book. Pavier's newness as a stationer, however, would be a valuable asset as giving a presumption of innocence to an obscure transaction. Later developments show amicable business relations between Millington and Busby and Pavier; for on 19th of April, 1602 (the year in which the Pavier *Henry V.* came out) Pavier took over by assignment under the warden's hand *saluo Jure cuiuscunque* three copies, among them *Titus Andronicus* and the first and second parts of *Henry VI.*

If the entry of *Henry V.* to Pavier was a slippery transaction—and everything seems to favor the supposition that it was—is it not possible that the warden was deceived as to the identity of the *Henry V.* and, because the printer, Thomas Creede, was the same, was misled into supposing that he was only giving consent to a transfer from Creede to Pavier of the copyright in the old Queen's play, *The Famous Victories of Henrye the Ffyfth conteyning the honorable battell of Agencourt*, properly entered on the register 14 May, 1594, to Thomas Creede? As Creede retained the printing of the new *Henry V.*, the deception would not be impossible, if the copy were only glanced at by a careless warden. The entry of the *Apologie for Poesie* to Olive, when it had been entered, under a title rather different, to Ponsonby five months before, shows that a differently worded title did not always rouse the suspicion of the warden at the time the work was entered. And there are substantial resemblances in the wording of the

title (e. g., "with the battle of Agincourt" and "conteyninge the honourable battell of Agincourt") which, taken together with the fact that the same printer was involved in both cases, make it possible that the warden was careless rather than dishonest. That the work continued to be printed in its corrupt form, however, can be explained only by indifference on the part of the company or peculiar difficulties in the way of settlement.

It is possible that, if the play was patched up from stenographic notes taken at performance, it would have put the company to some expense to defend itself against this particular kind of piracy. There is no doubt that the law gave better security for property in manuscripts at this time than it gave against reproduction from oral delivery by memory and short-hand. The whole history of stage right shows that this must have been the case. The legality of reproducing a play from short-hand notes and printing it was solemnly discussed in 1770,³³ and reproduction by stenography forbidden. But reporting and reproducing from memory was upheld by J. Buller in 1793.³⁴ Again, in *Keene v. Wheatley and Clarke*, decided by the Circuit Court of the U. S., E. D. 'Pa. in equity,³⁵ it was stated that, if the piracy had been committed through the defendants' memorizing the play or hiring others to memorize it, there would be no case; but, as the defendants had got the manuscripts from actors, a breach of confidence might be pleaded. Even as late as 1882, in the case of *Tompkins v. Thomas E. Hallock*,³⁶ a play was committed to memory a section at a time, by repeated visits to the theatre, and dictated by sections after the performance. The judge who heard the case against the man

³³ *Macklin v. Richardson* (Ambler, *Cases in Chancery*, II, p. 694).

³⁴ *Coleman v. Wathen* (5 T. R. Durnford and East, p. 245).

³⁵ *Phila. Reports* 4, vol. XVII, p. 349.

³⁶ 133 Mass., p. 32.

Byron ruled that there was no violation of trust or confidence, and therefore no injunction could issue. The question was then brought before the full court and argued. Many precedents were cited to show that, while the manager of a theatre might, if he chose, prevent phonographic or stenographic report, "the privileges of listening and of retention in the memory cannot be restrained. Where the audience is not a select one, these privileges cannot be limited in either their immediate or ulterior consequences."

That stenography was commonly used in the late sixteenth and early seventeenth centuries is well known; indeed, by 1630 it was probably in more common use at public performances than it is today, if we may judge from contemporary statements. And we have proof that it was used as early as 1600. Frequent allusions show that it was a common practice of the theatre-goers of this time to memorize parts of plays. When there were fewer things to memorize, there were doubtless stronger memories; and it is not improbable that numerous attempts were made to reproduce plays from stenographic notes aided by memory, or from memory aided by stenographic notes on details. The garbled texts of the first quartos of *Henry V.* strongly favor such an origin; and I believe, when some one shall have studied them in detail with this in view, he will be able to make us reasonably certain that this was the means by which the text was actually acquired. If so, perhaps the company refrained from taking the matter up because it was too late to check the piracy entirely, through stationers or Lord Chamberlain, when they discovered the trouble, and because they shrank from the time, trouble, and expense involved in proving that the issuing of a text so acquired really violated their stage rights. That the reporting of

a play by stenography was regarded as reprehensible we guess from Heywood's allusions to the practice; but this gives us only the playwright's point of view, and it is only natural that the legal protection should be far behind the author's conception of his rights: it always has been far behind. Even if there were any generally accepted legal attitude that tended to protect plays from stenographic piracy (which we may reasonably doubt when we see how lately the problem has worried learned judges), the company must have been aware that there were some addle-headed individual judges who could not be made to see the matter straight. Going to law about violations of stage-right in the last two centuries has been anything but a pleasant pastime. If the Chamberlain's men were really busy in the summer of 1600, it is not inconceivable that, in the difficult matter of a text got up from short-hand notes and memory, they may have preferred to shirk the task of proving their case. The text is so extremely bad that the reading of it would not be likely to rival the pleasure of seeing and hearing the real thing. But inquiry into the motives of the company in not pursuing their claims to property is, of course, highly speculative. A really satisfactory solution of the problems surrounding the publication of *Henry V.* has never yet been set forth. Possibly we may hope for one after the quartos have been thoroughly studied with reference to the possibilities of their having been made up entirely from short-hand notes and memory, and after the activities of the Chamberlain's men in 1600 have been more thoroughly investigated. It is the purpose of this paper to isolate this problem from those connected with the other plays "to be staid" at the same time, on the ground that it is a different kind of problem and one that merits investigation independently of the others.

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